

TITLE 316 - NEBRASKA DEPARTMENT OF REVENUE
Chapter 58 Tobacco Product Manufacturers

Reg-58-003 Manufacturer's Certification

003.01 Every tobacco product manufacturer whose cigarettes are sold in this state, whether directly or through a distributor, retailer, or similar intermediary or intermediaries, shall annually execute and deliver a certification to the Tax Commissioner and the Attorney General.

003.01A The certification shall be on a form prescribed by the Tax Commissioner. The form will be available on the Nebraska Department of Revenue website.

003.01B The certification shall be delivered no later than April 30 of each year.

003.01C The certification shall be updated with a supplemental certification as required by 003.06.

003.02 Every participating manufacturer must certify under penalty of perjury that, as of the date of the certification, that it is a participating manufacturer. It shall include in its certification a list of its brand families.

003.02A A participating manufacturer shall not include a brand family in its certification unless it affirms that the brand family is to be deemed to be its cigarettes for purposes of calculating its payments under the Master Settlement Agreement for the relevant year in the volume and shares determined pursuant to the Master Settlement Agreement.

003.03 Every nonparticipating manufacturer shall certify, under penalty of perjury that, as of the date of the certification, such manufacturer is in full compliance with §69-2703(2) and these regulations, and has made all quarterly installment payments required by Reg-58-005, and shall include in its certification the following information:

003.03A A list of all of its brand families and the number of units sold for each brand family that were sold in the state during the preceding calendar year. A list of the brand families that were sold in the state during the current year. The list shall include the name of any of its brand families sold in the state during the current or preceding calendar years that is no longer being sold in the state as of the date of the certification. Additionally, the list shall identify, by name and address, any other manufacturer in the preceding calendar year of any brand family listed.

003.03A(1) A brand family should not be included in the list unless the nonparticipating manufacturer affirms that the brand family is to be deemed to be its cigarettes for purposes of §69-2703(2), which establishes the obligation to make escrow deposits.

003.03B A statement that the nonparticipating manufacturer has established and continues to maintain a qualified escrow fund pursuant to a qualified escrow agreement. The date of approval of or submission to the Attorney General should be included.

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003.03B(1) A statement including the name, address, and telephone number of the financial institution where the nonparticipating manufacturer has established a qualified escrow fund; the account number of such fund and any sub-account number for the State of Nebraska; the amount deposited in the fund for cigarettes sold in the state during the preceding calendar year; the dates and amount of each such deposit, along with a copy of a deposit slip, account statement or a letter signed by an officer of the financial institution verifying the deposit, the amounts and dates of any withdrawal or transfer of funds the nonparticipating manufacturer made at any time from such fund or from any other qualified escrow fund into which it ever made escrow payments pursuant to §69-2703(2).

003.03C A statement that the nonparticipating manufacturer, unless it is a resident of this state, is either registered to do business in Nebraska as a corporation or business entity, or has appointed an agent for service of process located in the United States on whom all process and any action or proceeding against the nonparticipating manufacturer concerning or arising out of the enforcement of §§ 69-2703 through 69-2710 may be served in any manner authorized by law. Said agent for service of process must be appointed and continually engaged without interruption.

003.03C(1) The nonparticipating manufacturer shall provide the name, address, telephone number of such agent to the Tax Commissioner and Attorney General, along with a written acceptance of the appointment and availability of the agent.

003.04 Tobacco product manufacturers shall maintain all invoices and documentation of sales and other such information relied upon for such certification for a period of five years unless otherwise required by law to maintain them for a greater period of time.

003.05 The Tax Commissioner or Attorney General may require a tobacco product manufacturer to submit any additional information, including, but not limited to, samples of the packaging or labeling of each brand family, as is necessary to a determination of whether a manufacturer is in compliance with §69-2704 through § 69-2710.

003.06 A supplemental certification shall be required in the following situations.

003.06A The list of brand families shall be updated by the tobacco product manufacturer thirty calendar days prior to any addition to or modification of its brand families by executing and delivering a supplemental certification to the Tax Commissioner and the Attorney General.

003.06B The nonparticipating manufacturer shall provide notice to the Tax Commissioner and Attorney General thirty calendar days prior to termination of the authority of an agent and shall further provide satisfactory proof of the appointment of a new agent no less than five calendar days prior to the termination of an existing agent appointment. In the event an agent terminates an agency appointment, the

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nonparticipating manufacturer shall notify the Tax Commissioner and Attorney General of the termination within five calendar days and shall include satisfactory proof of the appointment of a new agent.

003.07 The supplemental certification shall include the following information:

03.07A For supplemental certifications required under 003.06A , the name and address of the tobacco product manufacturer with a list of the names of any new brand families being sold and the names of any brand families no longer being sold.

003.07B For supplemental certifications required under 003.06B , the name and address of the nonparticipating tobacco product manufacturer with a statement of the termination of the authority of the registered agent and the effective date of said termination, along with a statement of the appointment of a new registered agent, including said agents name, address, and phone number. Attached to the supplemental certification shall be a signed statement by the new registered agent showing acceptance of its appointment as a registered agent and the effective date thereof.

(Sections 69-2706, 69-2707, 69-2708, 69-2709, and 69-2710, R.S.Supp., 2003.
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